

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

CLIFFORD DISNEY,

Petitioner,

v.

Civil Action No. 2:12-cv-13828  
Honorable Denise Page Hood

SHERRY BURT,

Respondent.

**OPINION AND ORDER DISMISSING CASE FOR FAILURE  
TO CORRECT DEFICIENCY AND DENYING MOTION FOR BOND AS MOOT**

The Court has before it Petitioner Clifford Disney's *pro se* Petition for a Writ of Habeas Corpus filed under 28 U.S.C. § 2254. Petitioner filed his Habeas Petition on August 29, 2012, alleging that he incarcerated in violation of his constitutional rights. Petitioner is a state prisoner currently incarcerated by the Michigan Department of Corrections, currently housed at the Central Michigan Correctional Facility in St. Louis, Michigan, where he is serving concurrent sentences of five to fifteen years, each, for his 2006 convictions for possession of a controlled substance and operating a motor vehicle while intoxicated. Petitioner was convicted in the Circuit Court in Wayne County, Michigan, following a jury trial. He was sentenced as a habitual offender, fourth offense, on September 15, 2006. The state appellate courts affirmed Petitioner's convictions and sentences. *People v. Disney*, No. 273367, 2008 WL 162000 (Mich. Ct. App. Jan. 17, 2008); *People v. Disney*, 481 Mich. 880, 748 N.W.2d 850 (2008) (Table). Pursuant to the Michigan Department of Corrections's website, Petitioner's maximum discharge date is July 22, 2033.

When Petitioner filed the pending Habeas Petition, he neither paid the required filing fee for this action nor submitted a proper Application to Proceed *In Forma Pauperis*. Consequently, on September 10, 2012, the Court ordered a Deficiency Order, requiring him to either submit the required filing fee or a properly completed Application to Proceed *In Forma Pauperis*. Order to Correct Deficiency, ECF No. 6. The Court further stated that failure to do so within twenty-one days of the Court's Order would result in dismissal of his case. *Id.*

Subsequently, on October 4, 2012, Petitioner filed a "Motion to Extend Time to File Account Statement," in which he requested that the Court extend the time for correcting the deficiency. See ECF No. 7. The Court granted the Motion and gave him an additional thirty days in which to correct his deficiency, or until November 22, 2012. Order Granting Mot. to Extend Time, ECF No. 8. The time for submitting the filing fee or the required information has now elapsed; Petitioner has failed to comply with the Court's Order.

If a prisoner who seeks habeas-corpus relief does not comply with a district court's directions in a deficiency order regarding the prisoner's failure to pay the full filing fee and his failure to provide the required documentation to apply to proceed *in forma pauperis*, "the district court must presume that the prisoner is not a pauper, assess the full filing fee, and dismiss the case for want of prosecution." See *Gravitt v. Tyszkiewicz*, 14 F. App'x 348, 349 (6th Cir. 2001) (citing *McGore v. Wrigglesworth*, 114 F.3d 601, 605 (6th Cir. 1997)).

The Deficiency Order clearly stated that Petitioner was required to submit either the \$ 5.00 filing fee or an Application to Proceed *In Forma Pauperis*. The Deficiency Order also expressly warned him that failure to comply with the Order could result in the dismissal of his action. Therefore, because Petitioner failed to pay the filing fee or submit the required

Application to Proceed *In Forma Pauperis*, his Habeas Petition is subject to dismissal for want of prosecution.

Accordingly, the Court DISMISSES WITHOUT PREJUDICE the Petition for a Writ of Habeas Corpus. Pet'r's Pet. for Writ of Habeas Corpus, ECF No. 1. Given this decision, Petitioner's "Motion for Bond" [ECF No. 3] is DENIED AS MOOT.

IT IS SO ORDERED.

DATED: January 3, 2013

s/Denise Page Hood  
DENISE PAGE HOOD  
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was sent to parties of record on January 3, 2013 electronically or by U.S. mail.

s/Michael Williams  
Relief Case Manager for the  
Honorable Denise Page Hood